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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/749,431	12/30/2003	Brian Alan Grove	2043.101US1	9577
49845	7590	04/12/2007		
SCHWEGMAN, LUNDBERG, WOESSNER & KLUTH/EBAY P.O. BOX 2938 MINNEAPOLIS, MN 55402			EXAMINER GART, MATTHEW S	
			ART UNIT 3625	PAPER NUMBER

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	04/12/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary	Application No. 10/749,431	Applicant(s) GROVE ET AL.	
	Examiner Matthew S. Gart	Art Unit 3625	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 29 March 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,3-5,7-9,11-13,15 and 16 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,3-5,7-9,11-13,15 and 16 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Prosecution History Summary

- Claims 2, 6, 10 and 14 have been cancelled.
- Claims 1, 3-5, 7-9, 11-13 and 15-16 are currently pending in the application.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1, 3-5, 7-9, 11-13 and 15-16 are rejected under 35 U.S.C. 102(e) as being anticipated by Coffman (U.S. Patent Application Publication No. 2004/0215467).

Referring to claim 1. Coffman discloses a network-based commerce system including:

- A processor coupled to a memory through a bus (Coffman: Fig. 1A and Fig. 1B);
and
- An auction price-setting process executed from the memory by the processor to cause the processor to receive a question associated with a listing for an item during the auction price-setting process (Coffman: paragraph 0037), and to provide an answer to the question via a communications network (Coffman: paragraph 0037), the providing of the answer including publishing the question and the answer on the listing for the item (Coffman: paragraph 0136).

Referring to claim 3. Coffman further discloses a network-based commerce system wherein the auction price-setting process further causes the processor, when providing the answer to provide the answer to the question via an electronic mail message over the communications network (Coffman: paragraph 0035, "Furthermore, aspects of the system enable rapid dissemination of smaller documents via email (such as responses to questions and the like), and rapid notification to suppliers that larger documents are available to download from a central Web server.").

Referring to claim 4. Coffman further discloses a network-based commerce system wherein the auction price-setting process further causes the processor to receive the question from a bidder over the communications network (Coffman: paragraph 0037 and paragraph 0136).

Referring to claim 5. Coffman further discloses a network-based commerce system including: a means for receiving a question associated with a listing for an item during an auction price-setting process; and a means for providing an answer to the question via a communications network (Coffman: paragraph 0037 and paragraph 0136).

Referring to claim 7. Coffman further discloses a network-based commerce system wherein the means for providing includes providing the answer to the question via an electronic mail message over the communications network (Coffman: paragraph

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0035, "Furthermore, aspects of the system enable rapid dissemination of smaller documents via email (such as responses to questions and the like), and rapid notification to suppliers that larger documents are available to download from a central Web server.").

Referring to claim 8. Coffman further discloses a network-based commerce system of claim 5, wherein the means for receiving includes receiving the question from a bidder over the communications network (Coffman: paragraph 0037 and paragraph 0136).

Referring to claims 9 and 11-12. Claims 9 and 11-12 contains limitations similar to those in claims 1, 3-5 and 7-8. Claims 9 and 11-12 are rejected under the same rationale as set forth above in claims 1, 3-5 and 7-8.

Referring to claims 13 and 15-16. Claims 13 and 15-16 contains limitations similar to those in claims 1, 3-5 and 7-8. Claims 13 and 15-16 are rejected under the same rationale as set forth above in claims 1, 3-5 and 7-8.

Response to Arguments

Applicant's arguments with respect to the Morin reference are persuasive. The rejection of claims 1, 3-5, 7-9, 11-13 and 15-16 under 35 U.S.C. 103(a) as being unpatentable over Morin (U.S. Patent No. 6,748,422) in view of Coffman (U.S. Patent Application Publication No. 2004/0215467) has been vacated because Morin is excluded as prior art under 35 U.S.C. 103(c)(1).

The Attorney argues that Coffman does not disclose receiving a question associated with a listing for an item during the auction price-setting process, and to provide an answer to the question via a communication network, the providing of the answer including publishing the question and the answer on the listing for the item.

The Examiner notes, Coffman discloses a system that permits questions and answers to be posted (i.e., published) at a Web site before a specific auction, which all suppliers invited to participate in the auction may access (Coffman: paragraph 0037).

Furthermore Coffman discloses the use of a Display Q&A Log link (Coffman: paragraph 0137) that allows a user to click on the link to display a window or log of questions and answers posted (i.e., published) at the auction Web site. By this method, suppliers having enabled identification numbers and passwords may post questions and see answers from the business at any time between RFQ submission and the auction's end (i.e., during the auction price-setting process).

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Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Matthew S. Gart whose telephone number is 571-272-3955. The examiner can normally be reached on M-F, 9-6.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jeff Smith can be reached on 571-272-6763. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

MSG
Primary Examiner
April 6, 2007


MATTHEW S. GART
PRIMARY EXAMINER
TECHNOLOGY CENTER 3600